

If a purchase order is accepted by a retailer in a jurisdiction that imposes a local tax, that local tax will be incurred by the retailer. See 86 Ill. Adm. Code 270.115. (This is a GIL).

July 27, 2001

Dear Xxxxx:

This letter is in response to your letter received by our office on June 19, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We are inquiring on the proper sales tax to pay on chemical we purchase from AAA.

In question is how our order is taken. The following steps occur. A representative from AAA visits our plant in CITY, Illinois, takes an inventory then completes an order for our company. The AAA representative then calls our order into AAA Customer Service department in CITY/STATE using the order sheet he prepared. AAA people in CITY/STATE then contact the shipping center in CITY, Illinois to ship the product to our CITY plant.

We need to know which jurisdiction we need to use to determining correct Illinois sales tax.

DEPARTMENT'S RESPONSE:

For your general information, please see 86 Ill. Adm. Code 270.115 of the Home Rule Municipal Retailers' Occupation Tax for guidance concerning jurisdictional questions. In general, the imposition of the various sales tax related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order.

Therefore, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred by the retailer making that sale. The tax rate is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax. For these transactions the local tax will be incurred by the retailer. Although 86 Ill. Adm. Code 270.115 deals with the municipal Home-Rule taxes, the principles outlined in this regulation apply to all local taxes administered by the Department.

If a purchase order is accepted outside the State, but the property being sold is in an inventory of the retailer located in an Illinois jurisdiction that has imposed a local tax, then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes. See for example subsection (b)(3) of Section 270.115.

Retailers in locations that impose local taxes are allowed to reimburse themselves for those locally imposed taxes. (See for example, 65 ILCS 5/8-11-1, which allows a retailer to reimburse himself for Home Rule Municipal Retailers' Occupation Tax [HRMROT] incurred under that Act.) That authority creates a corresponding legal duty of the purchasers to pay such reimbursing amounts to the retailers if those retailers use their statutory authority to collect such reimbursing amounts as a separately stated item (or in combination with the State Use Tax) from the selling price of the tangible personal property.

Your letter does not state where the purchase order for the chemicals is accepted. If the purchase order is accepted by the sales representative at the plant in CITY, Illinois, then the sale will be considered to have taken place in CITY. In that instance, the retailer will incur the State rate of tax (6.25%) plus any local taxes imposed in that jurisdiction.

If the purchase order is accepted at the customer service office location outside of this State but the order is filled from an inventory of the retailer located in Illinois (such as the shipping center in CITY, Illinois), then the sale will be considered to have taken place in the location of the Illinois inventory (CITY, Illinois). In that instance, the retailer will incur the State rate of tax (6.25%) plus any local taxes imposed in that jurisdiction.

If the purchase order is accepted at the customer service office location outside of this State and the order is filled from an inventory located outside of this State, then the sale will be considered to have occurred outside of this State. In that instance, only the State rate of tax (6.25%) will apply.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.